

SECTION II REMARKS

This responds to the November 10, 2008 Office Action in the above-identified application. The time for responding to the November 10, 2008 Office Action without extension was set at one month or December 10, 2008. This response is therefore timely.

In the Requirement for Restriction dated November 10, 2008 the examiner has identified the following groups of inventions, as not so linked as to form a single general inventive concept under PCT Rule 13.1, and the examiner required election of a single invention identified below:

- **Group I, claims 1-9 and 17**, drawn to a method for producing a cellulosic form; and
- **Group II, claims 10-16**, drawn to a cellulosic form.

Applicants elect, with traverse, Group II, consisting of claims 10-16, drawn to a cellulosic form, class and subclass undefined.

Traversal of Restriction Requirement

The above election of the claims of Group II is made by applicants with traverse. The examiner's attention is respectfully directed to MPEP § 1850, PCT Rule 13.2 which forms the basis for applicants' traversal and states:

“[w]here a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression ‘special technical features’ shall mean those **technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.**” (emphasis added)

The restriction is traversed under Rule 13.2 as there exist common special technical features which define the contribution the claims of both Groups I and II make over the prior art. Specifically, both the methods of claims 1-9 and 17 and the products of claims 10-16 recite an ion exchanger having a superior capacity to the ion exchanger described in German application DE 10140772.

The examiner has cited German application DE 10140772 as “teach[ing] the common technical feature of an ion exchanger contained in a cellulosic form loaded with bactericidal metal ions

that releases the ions into an aqueous solution to reach the applicable equilibrium concentration.” Applicants do not disagree that ion exchangers *per se* have been previously taught. However, the method of claims 1-9 and 17 and the product of claims 10-16 (and new claims 18-20) both require an ion exchanger that is weakly linked, as is recited in claims 1 and 10. Such an ion exchanger is superior to those previously taught by German application DE 10140772.

In fact, German application DE 10140772 is described in the “Background of the Invention” section of the present application, where it is disclosed that DE 10140772 lacks characteristics such as (i) specific binding of heavy metals onto the algae incorporated in the cellulosic form and (ii) bactericidal anions.

The present application, in describing the recited weak linkage, describes the ion exchangers of applicants’ invention as having “a decreased amount of cross linkers,” which allows for increased capacity of binding metal ions. (Specification, p. 3, ll. 26-31.) The examiner’s attention is respectfully drawn to page 4, lines 1-9, where it is described that “fibers made with incorporated weakly cross-linked cation exchangers show a capacity for binding silver ions which surpasses the capacity of fibres with brown algae according to DE 10 140 772 up to 28-fold.” (Emphasis added) Specifically, in paragraph [0062] of DE 10140772 (and in English at para. [0074] of the related U.S. national stage application, published U.S. patent application no. 2005/0035057) the content of the heavy metals adsorbed is described as at least 1 mg/kg, at least 10 mg/kg, at least 70 mg/kg, at least 200 mg/kg, at least 500 mg/kg and particularly at least 1000 mg/kg. By contrast, the capacity of the cellulosic form of the present invention is described as > 100 g/kg in one embodiment thereof. Other examples of the applicants’ claimed invention in the present application provide capacity of 5000-10,000 mg/kg of silver (p. 4, l. 28) and 36.5 g/kg (Table 1). These examples show that the cellulosic form of applicants’ invention clearly has an increased capacity, as compared to the capacity of the cellulosic form of DE 10140772.

The cellulosic form recited in claims 10-16 and 18-20 and used in the method of claims 1-9 and 17 is demonstrated to have superior capacity for metal adsorption, as compared to the cellulosic form of the cited reference, German application DE 10140772. Such an increase in capacity attributable to the unique physical characteristics of the recited cellulosic form, is a common special technical feature of the invention as claimed in all of claims 1-20, and therefore all claims possess unity of invention.

Rejoinder

In the event that the restriction requirement between the composition and method aspects of the invention is made final, Applicants responsively request rejoinder of method claims 1-9 and 17 under the provisions of MPEP §821.04 upon confirmation of allowable subject matter of the composition claims 10-16 and 18-20.

Such rejoinder would be fully proper under these circumstances¹.

In the present application the elected claims 10-16 and newly added claims 18-20 are directed to cellulosic forms and the remaining claims 1-9 and 17 are directed to methods for making such cellulosic forms. Consistent with the provisions of MPEP §821.04, when the product claims 10-16 and 18-20 are subsequently found allowable, any withdrawn method of making and/or using claims would be properly rejoined for examination.

Regarding the Amendments

Claims 4-8, 11 and 16 have been amended and new claims 18-20 have been added, as set forth in the above Complete Listing of the Claims. As amended, the claims are supported by the specification and the original claims.

Specifically, claims 4-8, 11 and 16 have been amended to clarify the language of those claims. No substantive changes have been made to the subject matter of the claims. New claims 18-20 are supported by claims 4, 5 and 6, as originally filed.

No new matter has been added, as defined by 35 U.S.C. § 132.

Thus, upon entry of the amendments, claims 1-20 will be pending.

¹ When an application as originally filed discloses a product and the process for making and/or using such product, and only the claims directed to the product are presented for examination, when a product claim is found allowable, Applicants may present claims directed to the process of making and/or using the patentable product for examination through the rejoinder procedure in accordance with MPEP §821.04, provided that the process claims depend from or include all the limitations of the allowed product claims.

CONCLUSION

In response to the Requirement for Restriction dated November 10, 2008, Applicants have provisionally elected, with traverse, Group II, claims 10-18, drawn to a cellulosic form.

The examiner correspondingly is requested to reconsider the election requirements in light of the foregoing remarks.

The time for responding to the November 10, 2008 Office Action without extension was set at one month, or December 10, 2008. This Response is therefore timely and no fees are believed to be due for the filing of this paper. However, should any fees be required or an overpayment of fees made, please debit or credit our Deposit Account No. 08-3284, as necessary.

If any additional issues remain, the Examiner is requested to contact the undersigned attorneys at (919)419-9350 to discuss same, in order that the prosecution of this application is expedited.

Respectfully submitted,

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/steven j. hultquist/
Steven J. Hultquist
Reg. No. 28,021
Attorney for Applicants

Date: December 10, 2008

/kelly k. reynolds/
Kelly K. Reynolds
Reg. No. 51,154
Attorney for Applicants

INTELLECTUAL PROPERTY/
TECHNOLOGY LAW
Phone: (919) 419-9350
Fax: (919) 419-9354
Attorney File No.: 4197-125

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